United Nations A/HRC/37/NGO/62

General Assembly

Distr.: General
7 February 2018

English only

Human Rights Council
Thirty-seventh session
26 February-23 March 2018
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by Christian Solidarity Worldwide, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-01827(E)

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Situation of Freedom of Religion or Belief in Myanmar

Christian Solidarity Worldwide (CSW) seeks to draw the Council's attention to the situation of freedom of religion or belief in Myanmar.

CSW welcomes the continued efforts of the UN Special Rapporteur on the situation of human rights in the Myanmar, Yanghee Lee, and further welcomes the work of the Human Rights Council Independent International Fact-Finding Mission since it began in March 2017. Its independence should be maintained, and it should be given adequate resources to carry out its mandate.

In 2015, the National League for Democracy (NLD) won the country's first democratic elections in 25 years but democratisation remains fragile, and there is evidence of significant regression in some areas, particularly freedom of the press, freedom of expression and freedom of religion or belief (FoRB).

Concerns remain for political prisoners jailed under Section 295 of the penal code and for those who remain in detention or face detention because of their political activities, ethnicity or religion, including two journalists who are currently detained accused of breaching Section 3.1(c) of the Official Secrets Act.1 The two men, Wa Lone and Kyaw Soe Oo, worked on Reuters' coverage of the Rohingya crisis in Rakhine State, Myanmar.

Freedom of religion or belief

CSW remains concerned by rising militant Buddhist nationalism, which has created an atmosphere of rising religious intolerance and severe threats to FoRB.

The campaign of militant Buddhist nationalism continues to preach hatred, principally of Muslims, but also threatens Christians,other non-Buddhists, and even affects Buddhists who attempt to oppose the Buddhist nationalist campaign. Hate speech and discrimination are widespread, including affecting daily needs such as access to housing, education and employment.

Sporadic violence against Muslims has occurred throughout the country since 2012. This is separate from, although related to, the crisis facing the Rohingyas in Rakhine state.

Legislation has also contributed to religious intolerance. A package of four laws aimed at the 'protection of race and religion' was passed in 2015, despite significant human rights concerns being highlighted by civil society, the NLD - who were the opposition party at the time - and the international community. The legislation introduces restrictions on religious conversions and interfaith marriage, and furthers discrimination against religious and ethnic minorities, and against women. Furthermore, the Penal Code has been used to prosecute those deemed to have 'insulted' religion; in 2015, a Buddhist politician and member of the NLD, Htin Lin Oo, was jailed on charges of insulting Buddhism after he criticised militant Buddhist nationalists, saying their hate speech was incompatible with the teachings of Buddhism.

CSW calls on the government of Myanmar to repeal all legislation that discriminates against religious and ethnic minorities including laws that limit religious conversion and interfaith marriage.

The Plight of the Rohingya

The violence against the predominantly Muslim Rohingya people has given rise to a humanitarian crisis described by the UN High Commissioner for Human Rights as "a textbook example of ethnic cleansing".2 In December 2017 he went further, reporting "acts of appalling barbarity" suggesting that no one could rule out that "elements of genocide

1 Reuters News, 'Police sought Secrets Act probe of Reuters reporters an hour after their arrest', 22 January 2018 https://www.reuters.com/article/us-myanmar-journalists/police-sought-secrets-act-probe-of-reuters-reporters-an-hour-after-their-arrest-idUSKBN1FB352

2 OHCHR News '**Human Rights Council 36th session: Opening Statement by Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights', 11 September 2017** http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22041&LangID=E

may be present".3 The UN Secretary-General described the crisis as "the world's fastest developing refugee emergency and a humanitarian and human rights nightmare".4

The crisis in 2017 is preceded by decades of severe persecution of the Rohingyas. The Rohingya are effectively stateless, as the 1982 Citizenship Law denies them full citizenship; this has resulted in the Rohingya living without rights such as the right to vote, to freedom of movement, or to access basic services.

While CSW welcomes the establishment of the Rakhine Advisory Commission, set up by Aung San Suu Kyi and chaired by former UN Secretary-General Kofi Annan, there is a long way to go.

On 25 August 2017, the Commission published its report on the situation of the Rohingya people in Rakhine with a set of recommendations offering the best hope of progress towards justice and peace. Within hours a small, armed militant group known as the Arakan Rohingya Salvation Army (ARSA) reportedly launched attacks against 30 Burmese police posts, sparking a disproportionate response from the Myanmar Army involving attacks on villages and civilians. As a result of the army's actions, an estimated 626,000 people fled to Bangladesh, thousands were killed, hundreds of villages burned.5 Reports of horrific human rights atrocities include the burning of homes, schools and mosques; the deliberate burning to death of people inside their homes; torture; mass rape; execution without trial; and the blocking of aid.

During the UN Human Rights Council's Special Session held on the 5 December 2017 to discuss the human rights situation of the Rohingya, the UN High Commissioner for Human Rights said that these attacks were human rights violations "possibly amounting to crimes against humanity, and warranting the attention of the International Criminal Court".6 The Session concluded with a Resolution on the human rights situation of the minority Rohingya Muslim population and other minorities in the Rakhine state. CSW echoes the Council's calls for the High Commissioner for Human Rights to monitor the human rights situation of the Rohingya people, and to provide oral updates to the Council for a period of three years and a comprehensive written report, including the level of access given to the UN Fact-Finding Mission and Special Procedures.

The situation has been further aggravated by lack of co-operation on the part of the Burmese Government. CSW is concerned by that the government of Myanmar has denied the Human Rights Council Independent International Fact-Finding Mission access to Rakhine state and has not cooperated with the mission since it began in March 2017. Furthermore, the UN Special Rapporteur, Yanghee Lee, was denied access to the country in December 2017, despite having had cooperation from the government in the past. In response to the decision, Ms. Lee commented, "They [the Burmese Government] have said that they have nothing to hide, but their lack of cooperation with my mandate and the fact-finding mission suggests otherwise."7

CSW calls on the government of Myanmar and the international community to take decisive action to see these atrocities come to an end. CSW further calls on the government of Myanmar to allow unhindered access to international humanitarian aid agencies, human rights monitors, media, the UN representatives for the Fact-Finding Mission, and the UN Special Rapporteur on Myanmar

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3 OHCHR News 'Council concludes twenty-seventh special session on the human rights situation of the Rohingya Muslims and other minorities in Myanmar', 5 December 2017 http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22494&LangID=E

4 United Nations Secretary- General Statement, Secretary-General' remarks at open debate of the Security Council on Myanmar [as delivered]', 28 September 2017 https://www.un.org/sg/en/content/sg/statement/2017-09-28/secretary-generals-remarks-open-debate-security-council-myanmar

5 OHCHR News, 'Council concludes twenty-seventh special session on the human rights situation of the Rohingya Muslims and other minorities in Myanmar', 5 December 2017 http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22494&LangID=E

6 OHCHR News, 'Statement by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein', 5 December 2017 http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22487&LangID=E

7 OHCHR News, 'Myanmar refuses access to UN Special Rapporteur', 20 December 2017 http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22553&LangID=E

Freedom of Religion or Belief in Kachin State

Ethnic conflict against the Kachin and Shan peoples has also continued, leaving at least 140,000 civilians displaced, 200 villages attacked and 66 churches destroyed within the last five years. The judicial system has systematically failed to hold to account perpetrators of abuses such as torture, forced labour, rape and sexual violence and also directly discriminates against these minorities.

Clashes between the Kachin Independence Army and Myanmar Army have been ongoing for almost seven years following the collapse of a 17-year ceasefire. The UN Office for the Coordination of Humanitarian Affairs estimates that approximately 100,000 civilians remain displaced by conflict across Kachin and northern Shan states.

On 27 October 2017, two Kachin Christians, Dumdaw Nawng Lat, 67, and Langjaw Gam Seng, 35, received prison sentences for guiding journalists through a church that was reportedly bombed by the Burmese military. The men, who are members of the Kachin Baptist Convention, were both convicted under the Unlawful Associations Act for their alleged support of the Kachin Independence Army, and under the Import Export Act for operating motorcycles without a licence. CSW urges the authorities in Myanmar to release Dumdaw Nawng Lat and Langjaw Gam Seng, who have committed no crime, and calls on the international community to raise their case with the government of Myanmar.

Recommendations to the International Community:

- Work to see greater international action taken to end the violence against the Rohingya, and ensure that no members of the Rohingya community who have fled Myanmar are returned until their safety upon return can be guaranteed.
- Ensure that engagement with Myanmar on human rights and freedom of religion or belief does not focus entirely on the plight of the Rohingya to the exclusion of the Kachin and Shan people and Muslims, Christians and other minorities throughout the country. Freedom of religion or belief must recognised as a priority for all the people of Myanmar.
- Urge members of the Security Council to add to the pressure on Myanmar authorities by considering options such as an arms embargo against the military and targeted financial sanctions against individuals responsible for crimes and serious abuses.
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Recommendations to the government of Myanmar:

- Allow international humanitarian aid agencies, human rights monitors, the media, representatives for the UN Fact-Finding Mission, and the UN Special Rapporteur on Myanmar unhindered access to the country.
- Take meaningful action to address hate speech and discrimination, implementing the tools of the Rabat Plan of Action and other international programs for countering religious hatred.
- Repeal all legislation that discriminates against religious and ethnic minorities including laws that limit religious conversion and interfaith marriage.
- Change or repeal the 1982 citizenship law, allowing the Rohingya access to full citizenship rights.